

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESOLUTION NO. 94-045

RECOMMENDATION OF WATER QUALITY CERTIFICATION
FOR
SONOMA LAND TRUST TIDAL MARSH RESTORATION PROJECT
ALONG THE PETALUMA RIVER NEAR HIGHWAY 37
SONOMA COUNTY, CALIFORNIA

WHEREAS, The Sonoma Land Trust has applied to the State for Water Quality Certification under Section 401 of the Clean Water Act for the filling of 0.06 acres of wetlands, and 2.68 acres subject to Section 10 of the Rivers and Harbors Act; and

WHEREAS, these wetlands are waters of the State and of the United States; and

WHEREAS, the Regional Board under Section 401 of the Clean Water Act reviews applications to determine if the proposed activity will meet State water quality objectives for Water Quality Certification for the proposed activity; and

WHEREAS, Water Quality Certification is a certification for an activity that requires a federal license or permit that there is reasonable assurance that the activity which may result in discharge to waters of the United States will not violate water quality objectives (Title 23, California Code of Regulations, Section 3830 et. seq.); and

WHEREAS, the San Francisco Bay Conservation and Development Commission has determined that this project is categorically exempt from the California Environmental Quality Act (CEQA) requirement for preparation of an environmental impact report (BCDC Permit No. M93-12); and

WHEREAS, the 0.06 acres of wetlands proposed to be filled contain areas composed of hydric soils that are periodically inundated with surface and groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and is therefore defined as a wetland according to 40 CFR 122.2; and

WHEREAS, the 1.96 acres at the toe of the eastern levee and the 0.72 acres associated with the PG&E access levee and tower base on which construction activity would take place below mean high water (2.68 acres total) are subject to regulation pursuant to Section 10 of the Federal Rivers and Harbors Act; and

WHEREAS, these areas covered by wetland and riparian vegetation, provide valuable habitat for resident and migratory birds of a wide variety of species as well as provide wildlife habitat; and

WHEREAS, the Regional Board, in Resolution No. 87-106, dated August 19, 1987, adopted, in accordance with Section 13244 et. seq. of the California Water Code, amendments to the Water Quality Control Plan, San Francisco Bay Basin (Basin Plan) to establish a policy for regulating wetland fill. However, this policy has not yet been approved by the State Office of Administrative Law; and

WHEREAS, the proposed Basin Plan Wetland Fill Policy seeks to establish that there be no net loss of wetland acreage and no net loss of wetland habitat value when the project and the proposed mitigation are evaluated together and that mitigation for wetland fill projects be located in the same area of the Region, wherever possible, as the project; and

WHEREAS, Section 13142.5 of the California Water Code requires that the "highest priority shall be given to improving or eliminating discharges that adversely affect ... Wetlands, estuaries, and other biologically sensitive areas"; and

WHEREAS, Senate Concurrent Resolution No. 28 states that, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the State."; and

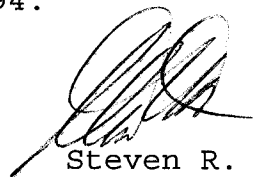
WHEREAS, since the project is designed to restore wetlands, that a net gain of tidal marsh/mudflat area and ecological value is virtually inevitable; and

WHEREAS, the restoration program includes a monitoring program that will be provided for a minimum of five years that will include documentation of sedimentation rates, establishment of vegetation, and Salt Marsh Harvest Mouse and avian use, with annual reports being provided to the U.S. Army Corps of Engineers;

BE IT THEREFORE RESOLVED, that this Regional Board recommends that the Executive Director of the State Water Resources Control Board grant Water Quality Certification pursuant to Section 401 of the Clean Water Act and State regulations in Title 23 California Code of Regulations Section 3830 et. seq., for the proposed wetland fill associated with the Sonoma Land Trust Tidal Marsh Restoration project.

BE IT FURTHER RESOLVED, that this Regional Board directs the Executive Officer to transmit this resolution to the Executive Director of the State Water Resources Control Board.

I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on March 16, 1994.



Steven R. Ritchie
Executive Officer